

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 983 Public Records Exemption for Putative Father Registry  
**SPONSOR(S):** Mahon  
**TIED BILLS:** HB 835 **IDEN./SIM. BILLS:** SB 2526

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary	11Y, 0N, w/CS	Birtman	Havlicak
2) State Administration			
3)			
4)			
5)			

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**SUMMARY ANALYSIS**

HB 835 creates a Putative Father Registry within the Office of Vital Statistics of the Department of Health. The registry requires an unmarried biological father to register in order to preserve the right to notice and consent to an adoption.

HB 983 creates a public records exemption for all information contained in the paternity registry, except for certificates certifying the identity and contact information for each registered biological father that matches the search request. The claim of paternity form includes the registrant's name, address, date of birth, and physical description of the mother; the date, place, and location of conception; and the name, date, and place of birth of the minor child or estimated date of birth of the expected minor child, if known.

The bill provides a public necessity statement, as required by the Florida Constitution, which states that the public records exemption "is good public policy to encourage putative fathers to grasp both the responsibility and the opportunity to be made legally aware of petitions and hearings to terminate their parental rights pending an adoption." Because the paternity registry reveals the occurrence of intimate sexual encounters, disclosure of such information would probably have a negative effect on the likelihood that putative fathers would register.

The bill provides for future review and repeal of the public records exemption.

The bill does not appear to have a fiscal impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                                         |                             |                                         |
|--------------------------------------|-----------------------------------------|-----------------------------|-----------------------------------------|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

**Paternity Registry:** HB 835 creates a Putative Father Registry within the Office of Vital Statistics of the Department of Health. The registry requires an unmarried biological father to register in order to preserve the right to notice and consent to an adoption.

**Effect of Proposed Changes:** HB 983 creates a public records exemption for all information contained in the paternity registry, except for certificates certifying the identity and contact information for each registered biological father that matches the search request. The claim of paternity form includes the registrant's name, address, date of birth, and physical description of the mother; the date, place, and location of conception; and the name, date, and place of birth of the minor child or estimated date of birth of the expected minor child, if known.

The bill provides a public necessity statement, as required by the Florida Constitution, which states that the public records exemption "is good public policy to encourage putative fathers to grasp both the responsibility and the opportunity to be made legally aware of petitions and hearings to terminate their parental rights pending an adoption." Because the paternity registry reveals the occurrence of intimate sexual encounters, disclosure of such information would probably have a negative effect on the likelihood that putative fathers would register.

The bill provides for future review and repeal of the public records exemption.

#### C. SECTION DIRECTORY:

Section 1 provides a public records exemption for all information contained in the paternity registry created by s. 63.054, F.S. The section also provides for an Open Government Sunset Review and future repeal.

Section 2 provides a statement of public necessity.

Section 3 provides an effective date contingent upon the passage of HB 835 or similar legislation.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

2. Expenditures:  
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
None.
2. Expenditures:  
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:  
This bill does not affect municipal or county governments.

2. Other:

**Public Records Law:**

**Florida Constitution**

Article I, s. 24(a), Florida Constitution, expresses Florida's public policy regarding access to government records as follows:

Every person has the right to inspect or copy any public records made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

Article I, s. 24(c), Florida Constitution, does, however, permit the Legislature to provide by general law for the exemption of records from the requirements of s. 24. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.

**Florida Statutes**

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07(1)(a), F.S., provides:

Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at a reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee.

#### **Open Government Sunset Review Act of 1995**

Section 119.15, F.S., the Open Government Sunset Review Act of 1995, provides that an exemption may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of the following purposes, and the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption:

1. Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
2. Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this subparagraph, only information that would identify the individuals may be exempted; or
3. Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

The Department of Health, Office of Vital Statistics fears that information contained in the forms that unmarried biological fathers fill out in order to register with the Putative Father Registry, may not be confidential and exempt from public records requirements. It should be noted that the Department of Health, Office of Vital Statistics does have rule-making authority to implement the provisions relating to the Putative Father Registry, pursuant to HB 835.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

The Judiciary Committee adopted a strike-all amendment at its meeting on March 26, 2003, which conformed this bill to the amendment to HB 835. This analysis is drafted to the HB 983 as amended.